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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,258

06/07/2006

Ikuo Tachibana

YMMRP0105US

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01/02/2009

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EXAMINER

RICHERT, MARY ELIZABETH

ART UNIT

PAPER NUMBER

4128

MAIL DATE

DELIVERY MODE

01/02/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,258	<b>Applicant(s)</b> TACHIBANA, IKUO	
	<b>Examiner</b> MARY E. RICHERT	<b>Art Unit</b> 4128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/07/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: (81A) in Figure 8. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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### *Specification*

2. The abstract of the disclosure is objected to because legal phraseology such as "The object of the present invention..." should be avoided. Correction is suggested. See MPEP § 608.01(b).

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: an "absorbent body," as recited in claim 4, and a "web" structure as recited in claim 7. Appropriate correction is strongly suggested.

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Deleted: claim 7 recites a method for producing a worn article involving

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The disclosure is objected to because of the following informalities: Page 6, lines 13-14 of the detailed disclosure contains two spelling errors "corresoponding" and "Fisrt." Page 13, line 34 also contains the misspelling "emobodiment." Appropriate correction is suggested.

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The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. See MPEP 606.01.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The instant specification has been fully reviewed. However, the method as recited in claim 7 does not have any adequate support in the specification so as to enable one of ordinary skill in make and/or use the invention as claimed without undue experimentation.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "a fitting portion that fits around a torso of a wearer, and an absorbent portion covering a crotch of a wearer and absorbing body fluid from the wearer." Further claim 3 recites "a back-side portion covering a back side of the wearer." Such recitation renders the claim indefinite because such recitation is inferentially included as part of the claimed combination of elements (a torso of a wearer, a crotch of a wearer, and body fluid from the wearer or the back side of the wearer). Should the applicant intend a torso of a wearer, a crotch of a wearer, and body fluid from the wearer or the back side of the wearer to be a positive element of the claimed combination, then antecedent basis should be provided. If not, it is suggested that the applicant adopts language such as "adapted to be" when relating claim elements to the torso, crotch, body fluid, or back side of the wearer.

Further regarding claim 1, the phrase "can be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. Claims 2-7 depend from claim 1 and likewise indefinite.

Claim 4 recites the limitation of the "absorbent body." There is insufficient antecedent basis for the absorbent body as a limitation in the claim, and therefore, renders the claim indefinite. Claim 7 depends from claim 4 and likewise indefinite.

Claim 7 recited a method of manufacturing an article; however, several recited steps were not clearly described in the written specification. Therefore, the metes and

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bounds of the claim subject matter as recited in the method claim could not be ascertained due to the lack of detail description. Therefore, claim 7 is indefinite.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1- 7 (as best understood as the subcombination of the worn article without the torso, crotch, or body fluid of the wearer) are rejected under 35 U.S.C. 102(b) as being anticipated by Ono et al. (EP 0 763 353).

Regarding claim 1, the Ono et al. reference contains a worn article that is capable of being worn by a user or wearer. As schematically shown in Fig 2, the article comprises a fitting portion (2), an absorbing portion (3), and a cover sheet (20A), wherein the absorbing portion (3) includes a first end portion (18 in Fig. 3) and a second end portion (19 in Fig. 3). The cover sheet (20A) is covering at least a portion of the first end portion (18) in Fig. 3.

Regarding claim 2, the “reinforcing flap” or cover sheet (20A) is inherently capable of being torn. Yoshido et al. also includes fasteners (36A and 36B) that are on the absorbent portion (3). The fasteners (36A and 36B) detachably fasten together the absorbent portion (3) and the fitting portion (2) in a vicinity of the cover sheet (20A).

Regarding claim 3, as schematically shown in Fig. 2, the worn article in Ono et al. also comprises an abdominal-side (6,27) and a back-side (7) of the fitting portion (2) in

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Fig. 2. The first end (18) of the absorbent portion (3) is connected to the abdominal-side (6,27) of the fitting portion (2 in Fig. 2). The second end portion (19 in Fig. 3) of the absorbent portion (3) is connected to the back-side portion (7 in Fig. 2) of the fitting portion (2). The first end portion (18) is detachably touch-fastened to the fitting portion (2) through fasteners (36A and 36B). The “reinforcing flap” or cover sheet (20A) is covering the first end portion (18 in Fig. 3) of the absorbent portion (3) and is tearable.

Regarding claim 4, the worn article in Ono et al. comprises a first end portion (18) of the absorbent portion (3) that is layered where the inner surface (constituted by the surface which faces portion 30 in Fig. 2) is facing an outer surface (constituted by the surface which faces element 20A) of the abdominal portion (6,27) of the fitting portion (2), and an inner surface of the cover sheet (20A) is facing an outer surface of the absorbent portion (3) in Fig. 2. The outer surface of the cover sheet (20A) is constituted by the surface that is facing the torso of the wearer of the worn article while being worn. As schematically shown in Fig. 2, fitting portion (2), the absorbent body (construed by the examiner as the absorbent portion 3), and the cover sheet (20A) are constructed in a layered fashion.

Regarding claim 5, the Ono et al. worn article comprises a “reinforcing flap” or cover sheet (20A) having a tearable portion capable of being used to tear the cover sheet (20A) and, if torn, at least a portion of the first end portion (18 in Fig. 3) of the absorbent portion (3) would inherently be exposed.

Regarding claim 6, the Ono et al. worn article comprises a "reinforcing flap" or cover sheet (20A) which covers at least an upper edge of the first end portion (18) of the absorbent portion (3).

Regarding claim 7, as best understood without detailed written support, the Ono et al. reference discloses the structure of the absorbent portion (3) sandwiched between the cover sheet (20A) that is inherently tearable and the "web" or fitting portion (2), where the "web" is best understood by the examiner as material forming the fitting portion (2). The method as claimed, therefore, would be inherent during operation and use of the Ono et al. device.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY E. RICHERT whose telephone number is (571)270-5620. The examiner can normally be reached on Monday through Thursday, 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoa Huynh can be reached on (571)272-4888. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Khoa D. Huynh/Supervisory Patent Examiner, Art Unit 4128**Deleted:** .**Deleted:** Mary Elizabeth Richert¶**Deleted:** ¶**Formatted:** Line spacing: single,  
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